

House Bill 300

By: Representatives Smith of the 133rd, Smith of the 134th, Hawkins of the 27th, and Stephens of the 165th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 6 of Title 31 and Chapter 45 of Title 33 of the Official Code of Georgia
2 Annotated, relating to continuing care providers and facilities and state health planning and
3 development, so as to redesignate continuing care retirement communities as life plan
4 communities; to revise definitions; to provide for related matters; to repeal conflicting laws;
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 6 of Title 31 of the Official Code of Georgia Annotated, relating to state health
9 planning and development, is amended in Code Section 31-6-2, relating to definitions, by
10 revising paragraphs (11) and (23.1) as follows:

11 ~~"(11) 'Continuing care retirement community' means an organization, whether operated~~
12 ~~for profit or not, whose owner or operator undertakes to provide shelter, food, and either~~
13 ~~nursing care or personal services, whether such nursing care or personal services are~~
14 ~~provided in the facility or in another setting, and other services, as designated by~~
15 ~~agreement, to an individual not related by consanguinity or affinity to such owner or~~
16 ~~operator providing such care pursuant to an agreement for a fixed or variable fee, or for~~
17 ~~any other remuneration of any type, whether fixed or variable, for the period of care,~~
18 ~~payable in a lump sum or lump sum and monthly maintenance charges or in installments.~~
19 ~~Agreements to provide continuing care include agreements to provide care for any~~
20 ~~duration, including agreements that are terminable by either party~~ Reserved."

21 ~~"(23.1) 'Micro-hospital' means a hospital in a rural county which has at least two and not~~
22 ~~more than seven inpatient beds and which provides emergency services seven days per~~
23 ~~week and 24 hours per day. 'Life plan community' means an organization, whether~~
24 ~~operated for profit or not, whose owner or operator undertakes to provide shelter, food,~~
25 ~~and either nursing care or personal services, whether such nursing care or personal~~
26 ~~services are provided in the facility or in another setting, and other services, as designated~~

by agreement, to an individual not related by consanguinity or affinity to such owner or operator providing such care pursuant to an agreement for a fixed or variable fee, or for any other remuneration of any type, whether fixed or variable, for the period of care, payable in a lump sum or lump sum and monthly maintenance charges or in installments. Agreements to provide continuing care include agreements to provide care for any duration, including agreements that are terminable by either party.

(23.2) 'Micro-hospital' means a hospital in a rural county which has at least two and not more than seven inpatient beds and which provides emergency services seven days per week and 24 hours per day."

SECTION 2.

Said chapter is further amended in Code Section 31-6-21, relating to Department of Community Health generally, by revising paragraph (8) of subsection (b) as follows:

"(8) To establish, by rule, need methodologies for new institutional health services and health facilities. In developing such need methodologies, the department shall, at a minimum, consider the demographic characteristics of the population, the health status of the population, service use patterns, standards and trends, financial and geographic accessibility, and market economics. The department shall establish service-specific need methodologies and criteria for at least the following clinical health services: short stay hospital beds, adult therapeutic cardiac catheterization, adult open heart surgery, pediatric cardiac catheterization and open heart surgery, Level II and III perinatal services, freestanding birthing centers, psychiatric and substance abuse inpatient programs, skilled nursing and intermediate care facilities, home health agencies, and ~~continuing care retirement~~ life plan community sheltered facilities;"

SECTION 3.

Said chapter is further amended in Code Section 31-6-47, relating to exemptions from state health planning and development, by revising paragraph (17) of subsection (a) as follows:

"(17) ~~Continuing care retirement~~ Life plan communities, provided that the skilled nursing component of the facility is for the exclusive use of residents of the ~~continuing care retirement~~ life plan community and that a written exemption is obtained from the department; provided, however, that new sheltered nursing home beds may be used on a limited basis by persons who are not residents of the ~~continuing care retirement~~ life plan community for a period up to five years after the date of issuance of the initial nursing home license, but such beds shall not be eligible for Medicaid reimbursement. For the first year, the ~~continuing care retirement~~ life plan community sheltered nursing facility may utilize not more than 50 percent of its licensed beds for patients who are not

residents of the ~~continuing care retirement~~ life plan community. In the second year of operation, the ~~continuing care retirement~~ life plan community shall allow not more than 40 percent of its licensed beds for new patients who are not residents of the ~~continuing care retirement~~ life plan community. In the third year of operation, the ~~continuing care retirement~~ life plan community shall allow not more than 30 percent of its licensed beds for new patients who are not residents of the ~~continuing care retirement~~ life plan community. In the fourth year of operation, the ~~continuing care retirement~~ life plan community shall allow not more than 20 percent of its licensed beds for new patients who are not residents of the ~~continuing care retirement~~ life plan community. In the fifth year of operation, the ~~continuing care retirement~~ life plan community shall allow not more than 10 percent of its licensed beds for new patients who are not residents of the ~~continuing care retirement~~ life plan community. At no time during the first five years shall the ~~continuing care retirement~~ life plan community sheltered nursing facility occupy more than 50 percent of its licensed beds with patients who are not residents under contract with the ~~continuing care retirement~~ life plan community. At the end of the five-year period, the ~~continuing care retirement~~ life plan community sheltered nursing facility shall be utilized exclusively by residents of the continuing care retirement life plan community, and at no time shall a resident of a ~~continuing care retirement~~ life plan community be denied access to the sheltered nursing facility. At no time shall any existing patient be forced to leave the ~~continuing care retirement~~ life plan community to comply with this paragraph. The department is authorized to promulgate rules and regulations regarding the use and definition of 'sheltered nursing facility' in a manner consistent with this Code section. Agreements to provide continuing care include agreements to provide care for any duration, including agreements that are terminable by either party;"

SECTION 4.

Chapter 45 of Title 33 of the Official Code of Georgia Annotated, relating to continuing care providers and facilities, is amended by revising Code Section 33-45-1, relating to definitions, as follows:

"33-45-1.

As used in this chapter, the term:

(1) 'Continuing care' means furnishing pursuant to a continuing care agreement:

(A) Lodging that is not:

(i) In a skilled nursing facility, as such term is defined in ~~paragraph (34)~~ of Code Section 31-6-2;

(ii) An intermediate care facility, as such term is defined in ~~paragraph (22) of Code~~
Section 31-6-2;

(iii) An assisted living community, as such term is defined in Code Section
31-7-12.2; or

(iv) A personal care home, as such term is defined in Code Section 31-7-12;

(B) Food; and

(C) Nursing care provided in a facility or in another setting designated by the
agreement for continuing care to an individual not related by consanguinity or affinity
to the provider furnishing such care upon payment of an entrance fee including skilled
or intermediate nursing services and, at the discretion of the continuing care provider,
personal care services including, without limitation, assisted living care services
designated by the continuing care agreement, including such services being provided
pursuant to a contract to ensure the availability of such services to an individual not
related by consanguinity or affinity to the provider furnishing such care upon payment
of an entrance fee.

Such term shall not include continuing care at home.

(2) 'Continuing care agreement' means a contract or agreement to provide continuing
care, continuing care at home, or limited continuing care. Continuing care agreements
include agreements to provide care for any duration, including agreements that are
terminable by either party.

~~(2.1)~~(3) 'Continuing care at home' means the furnishing of services pursuant to a
continuing care agreement at a location other than at a facility and which includes the
obligation to provide nursing care, assisted living care, or personal care home services.
A continuing care at home agreement may, but is not required to, include an obligation
to provide food.

~~(3)~~(4) 'Entrance fee' means an initial or deferred payment of a sum of money or property
made as full or partial payment to assure the resident continuing care, limited continuing
care, or continuing care upon the purchase of a resident owned living unit; provided,
however, that any such initial or deferred payment which is greater than or equal to 12
times the monthly care fee shall be presumed to be an entrance fee so long as such
payment is intended to be a full or partial payment to assure the resident lodging in a
residential unit. An accommodation fee, admission fee, or other fee of similar form and
application greater than or equal to 12 times the monthly care fee shall be considered to
be an entrance fee. Such term shall not include any portion of the purchase or sale of a
resident owned living unit.

~~(4)~~(5) 'Facility' means a place which is owned or operated by a provider and provides continuing care or limited continuing care. Such term includes a facility which contains resident owned living units.

~~(5)~~(6) 'Licensed' means that the provider has obtained a certificate of authority from the department.

~~(7)~~ 'Life plan community' means a licensed provider furnishing continuing care or limited continuing care which has been issued a certificate of authority pursuant to this chapter.

~~(6)~~(8) 'Limited continuing care' means furnishing pursuant to a continuing care agreement:

(A) Lodging that is not:

(i) In a skilled nursing facility, as such term is defined in ~~paragraph (34)~~ of Code Section 31-6-2;

(ii) An intermediate care facility, as such term is defined in ~~paragraph (22)~~ of Code Section 31-6-2;

(iii) An assisted living community, as such term is defined in Code Section 31-7-12.2; or

(iv) A personal care home, as such term is defined in Code Section 31-7-12;

(B) Food; and

(C) Personal services, whether such personal services are provided in a facility such as a personal care home or an assisted living community or in another setting designated by the continuing care agreement, to an individual not related by consanguinity or affinity to the provider furnishing such care upon payment of an entrance fee.

Such term shall not include continuing care at home.

~~(7)~~(9) 'Monthly care fee' means the fee charged to a resident for continuing care or limited continuing care on a monthly or periodic basis. Monthly care fees may be increased by the provider to provide care to the resident as outlined in the continuing care agreement. Periodic fee payments or other prepayments shall not be monthly care fees.

~~(8)~~(10) 'Nursing care' means services which are provided to residents of skilled nursing facilities or intermediate care facilities.

~~(9)~~(11) 'Personal services' means, but is not limited to, such services as individual assistance with eating, bathing, grooming, dressing, ambulation, and housekeeping; supervision of self-administered medication; arrangement for or provision of social and leisure services; arrangement for appropriate medical, dental, nursing, or mental health services; and other similar services which the department may define. Personal services may be provided at a facility or at a home on or off site of a facility. Personal services

shall not be construed to mean the provision of medical, nursing, dental, or mental health services. Personal services provided, if any, shall be designated in the continuing care agreement.

~~(10)~~(12) 'Provider' means the owner or operator, whether a natural person, partnership, or other unincorporated association, however organized, trust, or corporation, of an institution, building, residence, or other place, whether operated for profit or not, which owner or operator undertakes to provide continuing care, limited continuing care, or continuing care at home for a fixed or variable fee, or for any other remuneration of any type for the period of care, payable in a lump sum or lump sum and monthly maintenance charges or in installments.

~~(11)~~(13) 'Resident' means a purchaser of or a nominee of or a subscriber to a continuing care agreement. Such an agreement may permit a resident to live at a home on or off site of a facility but shall not be construed to give the resident a part ownership of the facility in which the resident is to reside unless expressly provided for in the agreement.

~~(12)~~(14) 'Resident owned living unit' means a residence or apartment, the purchase or sale of which is not included in an entrance fee, which is a component part of a facility and in which the resident has an individual real property ownership interest.

~~(13)~~(15) 'Residential unit' means a residence or apartment in which a resident lives that is not a skilled nursing facility as defined in ~~paragraph (34)~~ of Code Section 31-6-2, an intermediate care facility as defined in ~~paragraph (22)~~ of Code Section 31-6-2, an assisted living community as defined in Code Section 31-7-12.2, or a personal care home as defined in Code Section 31-7-12."

SECTION 5.

Said chapter is further amended by revising Code Section 33-45-3, related to certificate of authority required for operation of continuing care facilities, as follows:

"33-45-3.

(a) Nothing in this title or chapter shall be deemed to authorize any provider to transact any insurance business other than that of continuing care insurance or limited continuing care insurance or otherwise to engage in any other type of insurance unless it is authorized under a certificate of authority issued by the department under this title. Nothing in this chapter shall be construed so as to interfere with the jurisdiction of the Department of Community Health or any other regulatory body exercising authority over providers regulated by this chapter or real property law related to the purchase and sale of resident owned living units.

(b) Nothing in this chapter shall be construed so as to modify or limit in any way:

(1) Provisions of Article 3 of Chapter 6 of Title 31 and any rules and regulations promulgated by the Department of Community Health pursuant to such article relating to certificates of need for ~~continuing care retirement communities~~ life plan communities or home health agencies, as such terms are defined in Code Section 31-6-2; or

(2) Provisions of Chapter 7 of Title 31 relating to licensure or permit requirements and any rules and regulations promulgated by the Department of Community Health pursuant to such chapter, including, without limitation, licensure or permit requirements for nursing home care, assisted living care, personal care home services, home health services, and private home care services.

(c) Nothing in this chapter shall be construed so as to allow private home care services to be provided by any person or entity other than a licensed private home care provider.

(d) A provider of continuing care at home may contract with a licensed home health agency to provide home health services to a resident. In order to provide home health services directly, a provider of continuing care at home shall obtain a certificate of need for a home health agency, as such term is defined in ~~paragraph (20)~~ of Code Section 31-6-2, pursuant to the same criteria and rules as are applicable to freestanding home health agencies that are not components of ~~continuing care retirement~~ life plan communities."

SECTION 6.

All laws and parts of laws in conflict with this Act are repealed.